

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 92-052-C - ORDER NO. 92-637
AUGUST 7, 1992

IN RE: Application of Executone Information) ORDER
Systems, Inc. for a Certificate of) DENYING
Public Convenience and Necessity to) PETITION FOR
Operate as a Reseller of Intrastate) REHEARING AND
InterLATA Long Distance Services within) RECONSIDERATION
the State of South Carolina.)

This matter is before the Public Service Commission of South Carolina (the Commission) on the Petition for Rehearing and Reconsideration of Order No. 92-535 (July 9, 1992) filed by Executone Information Systems, Inc. (Executone or the Company). Order No. 92-535 granted the Consumer Advocate for the State of South Carolina's (the Consumer Advocate's) Petition for Reconsideration and and ordered Executone to "refund to its customers all charges, if any, collected by it for completion of intrastate telephone calls prior to the date of this Order."¹ After thorough consideration, the Commission denies the Petition for Rehearing and Reconsideration for the reasons explained below.

Executone asserts that S.C. Code Ann. §58-9-280 (1976) does

1. Contrary to this sentence, the Commission concludes that refunds should be made for any charges collected for completion of intrastate telephone calls prior to June 4, 1992, and date of Order No. 92-425 which granted Executone a Certificate of Public Convenience and Necessity.

not "require the Commission to direct a refund of charges collected by a telephone utility prior to certification." Petition, p. 3.

As stated in Order No. 92-535, S.C. Code Ann. §58-9-280 (1976) requires a telephone utility to obtain a Certificate of Public Convenience and Necessity from the Commission before operating within South Carolina. As a matter of public policy, the Commission concludes it has the discretionary authority to order refunds in appropriate circumstances for service provided by a telephone utility prior to its obtaining a Certificate of Public Convenience and Necessity. The Commission finds and concludes that the circumstances surrounding Executone's provision of telephone service on an intrastate basis prior to obtaining authority is an appropriate instance in which to require refunds.

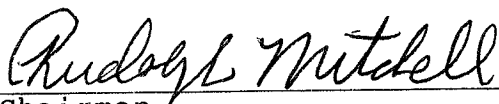
It is clear from the record in this proceeding that Executone was aware of the statutory prohibition against providing telephone service without authority because it applied for a Certificate of Public Convenience and Necessity. Nonetheless, Executone willingly chose to provide telephone service and charge for that service prior to and during the pendency of its Application. Moreover, although Executone's subscribers may not specifically have been harmed, South Carolina's general body of telephone subscribers in South Carolina are potentially harmed by unregulated telephone utilities providing service. Whether a telephone utility is fit, willing, and able to provide telecommunications service in South Carolina is a paramount

consideration in a certification proceeding. Intrastate service should not be provided by the utility until the Commission has passed on this matter because of the potential harm to the state's telephone subscribers who may unwittingly subscribe to an uncertified carrier.

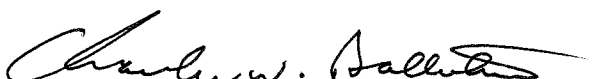
The Commission bases its decision to require refunds on prior decisions in which telecommunications resellers who have begun intrastate operations without prior Commission approval. The refund requirement is entirely consistent with previously annunciated Commission policy, and the Commission is aware of no facts in the record which would create a different result.

IT IS SO ORDERED.

BY ORDER OF THE COMMISSION:


VICE Chairman

ATTEST:


Executive Director

(SEAL)